

MINUTES

MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE, LIVESTOCK AND IRRIGATION

Call to Order: By **CHAIRMAN REINY JABS**, on February 19, 1999 at 3:21 P.M., in Room 413/415 Capitol.

ROLL CALL

Members Present:

Sen. Reiny Jabs, Chairman (R)
Sen. Walter McNutt, Vice Chairman (R)
Sen. Tom A. Beck (R)
Sen. Gerry Devlin (R)
Sen. Pete Ekegren (R)
Sen. Ric Holden (R)
Sen. Greg Jergeson (D)
Sen. Ken Mesaros (R)
Sen. Linda Nelson (D)
Sen. Jon Tester (D)

Members Excused: Sen. Mike Halligan (D)

Members Absent: None.

Staff Present: Carol Masolo, Committee Secretary
Doug Sternberg, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted:
Executive Action: SJ 11, SB 401

EXECUTIVE ACTION ON SJ 11

Motion: SEN. MCNUTT moved that **SJ 11 DO PASS.**

Doug Sternberg prepared a set of amendments that will embody the Farm Bureau amendments. He entered them as separate, each one their own separate language and didn't replace any of the

subsections that were in there. He combined number two and three pursuant to the suggested language by Farm Bureau. Amendment one embodies the first two suggested by Farm Bureau. Amendment two combines two and three of the present proposal consistent with the language suggested by Farm Bureau. Number three inserts the final two suggested amendments by Farm Bureau. **SEE EXHIBIT (ags41a01).**

SENATOR BECK These are add on and that's it.

Doug Sternberg These are all inserts. Since I combined in number two the language on the Cargill - Continental merger, I struck the old sub three and inserted two new ones. This leaves the resolution intact and adds four proposals from Farm Bureau.

Motion/Vote: **SEN. JERGSON** moved that **AMENDMENT SJ001101.ADS BE ADOPTED. Motion carried unanimously.**

Doug Sternberg **SENATOR HOLDEN** has an amendment with the effect of striking subsection seven on page two, lines 6 and 7. The amendment should read page two. **SEE EXHIBIT (ags41a02).**

Motion: **SEN. HOLDEN** moved **AMENDMENT SJ001102** for the purpose of discussion.

SENATOR HOLDEN I don't feel educated enough to send a message to my Congressional delegation that this is something we should do. A lot of organizations have been up in the air as to whether we should be transferring that out of the Department of Agriculture because it is an agricultural issue. In talking to some people since the hearing, they're telling me it might be more of an administrative problem within the Dept. of Agriculture.

SENATOR MESAROS Stock Growers and others representing cattle producers were part of writing this resolution. They conveyed they wanted to transfer it from Dept. of Ag to Dept. of Justice for better administration.

SENATOR HOLDEN In my readings of the Stock Grower's magazine, that wasn't what I saw.

SENATOR MESAROS I was at the Lewistown meetings and participated in those. That's when a lot of this was discussed. The Stock Growers were part of writing this language and support transferring it from Dept. of Ag to Dept. of Justice.

SENATOR DEVLIN Did they have a resolution?

SENATOR MESAROS They didn't have a resolution. They had a lot of input that this resolution embodies as far as petitions and recommendations of what they wanted done.

SENATOR MCNUTT Because of the delay and lack of action taking place in the Dept. of Ag, the move behind this was to get it to the Dept. of Justice so it could at least get something going. For that reason, I'd resist that amendment.

SENATOR JERGESON The Secretary of Agriculture, because of other relationships and other functions of the Dept., is going to be less inclined to bring anti-trust actions against Cargill or Iowa Beef Packers or anyone else on any number of issues than the Dept. of Justice. The Dept of Justice took on Bill Gates. I would resist the amendment. I'm sure I saw in Montana Farmer Stockman what the Stock Growers Board had described as their legislative agenda and this was one of the issues.

SENATOR NELSON I would just note that the Stock Growers did testify for the bill.

Vote: Motion **AMENDMENT SJ001102ADS failed 0-10.**

Motion/Vote: **SEN. JERGESON** moved that **SJ 11 DO PASS AS AMENDED.**
Motion carried unanimously.

{Tape : 1; Side : A; Approx. Time Counter : 3.3}

EXECUTIVE ACTION ON SB 401

Motion: **SEN. HOLDEN** moved **AMENDMENT SB040101.ADS.**
SEE EXHIBIT(ags41a03)

SENATOR HOLDEN worked with the Dept. of Transportation on a compromise the Dept., farmers and ranchers could live with. If these amendments are adopted, you'll see the Dept. has agreed to reduce the FTE's required to do the program. They've also reduced the fiscal note on reimbursing farmers and ranchers for farm fuel taxes withheld at the time of purchase of the fuel. This would address the issue **SENATOR BECK** brought of unearned income and earned income. The amendments would allow the Dept. to take out things that are causing a great majority of the problems, like Social Security ,interest income, dividends, oil revenues.

It puts in a look back period which **SENATOR DEVLIN** strongly supported in our earlier meetings. The Dept. would be given the authority to go back three years and look a person's income level, whether or not they've received a discount or refund in

those past three years. If the market crashes and you get less for your product but you've qualified in one of the other three years, the Dept. can look back at what happened today versus where you were three years ago and authorize the refund. The other part was a sliding scale. This would allow the people who have a working spouse not to get bounced out of the system. You could still file for farm refund and if you have outside income by way of second jobs, like 90% of our people do, their income is still proportionately matched to the amount of refund they would get. I was in direct conflict of the income test. The amendments we adopted prohibited the Dept. from using outside income. This is a compromise position to allow the income level to be scaled back. This would essentially wipe out 90% of the complaints that Mary Lamb at the Dept. of Transportation has been trying to handle for the last year and a half. We could certainly expect 90% less complaints from our constituencies on refusal of their farm fuel tax refund.

Doug Sternberg For purposes of preparing a revised fiscal note, some language that put in the word "off-road". Those amendments are still on the bill at this point. I don't know if the fiscal note you just passed out is a reflection of these amendments plus that "off-road" language or if it would be necessary to remove the former set of amendments and substitute these in order to come up with the fiscal note.

SENATOR HOLDEN We would need to amend my motion so we would take off the "off-road". This fiscal note is reflective of these amendments without the earlier amendment.

SENATOR DEVLIN Didn't we take some amendments off already?

SENATOR BECK We took off the ones I proposed and we put on "off road".

Marvin Dye, Dept. of Transportation, We worked closely with **SENATOR HOLDEN** on these amendments. This is going to be better for the majority of people who had difficulties getting their refund in the past because of the questions **SENATOR BECK** raised. It cleans up the language. I don't particularly like the million dollars but it's hard to argue with because of the way it's structured. One issue we need to address is would be the effective date. It's probably cleanest if it's closest to the end of the year, whether October or January 1, 2000 because it tends to lessen the confusion. Certainly the closer towards the beginning of 2000 the cleaner it is to administer.

SENATOR DEVLIN You're going to wait until the next reporting year and you're already getting these in this year. My phone is going to ring this year yet.

Marv Dye To some degree, it is. I imagine we already processed some. The early birds have probably already been there under the old set of rules. Up until April 15th or somewhere in there we're probably going to have our heaviest loads of submission.

SENATOR DEVLIN How big a job would it be if this were effective now to make it retroactive to the first of this year.

Robert Turner, Bureau Chief of Montana Dept. of Transportation. Right now, to be retroactive would be quite confusing because we'd have two different packets out there. It can be done. Yesterday I looked at our stats - 86% of applicants file before July 1, 14% file between July and December. The cleanest effective date would be January 1, 2000 but if you wanted to go back, it would be better to start July 1 rather than January 1.

CHAIRMAN JABS There's no deadline; you can file throughout the year. You can only go back fourteen months.

Robert Turner We have a bill that was introduced by **REP. ROSE, HB 630**, which actually extends the fourteen months to three years.

SENATOR BECK The federal is different than the state. We get the refund on the federal on our tax statement. I file for my state returns the same time I file for the federal because I have all the receipts there. That's for the last tax year. You're saying already people have asked for refunds previous to January 1, 1999. I think there's no choice but to go to January 1, 2000. I don't want to start in the middle of the calendar year because most of us file on a calendar year basis. I want to file the Federal as well as the State.

SENATOR DEVLIN You can file more often than once a year. It would be to their advantage to wait until the first of next year and then file for the past fourteen months.

{Tape : 1; Side : A; Approx. Time Counter : 3.45}

Robert Turner Yes, if they filed January 1 they could actually get back prior to January, 14 months of their invoices.

SENATOR HOLDEN I felt this legislation would go into effect October 1 like all our legislation. We haven't done anything for 1999 if you put on a delayed effective date of 2000. All you've

just caused another year of anxiety. From January to July, 86% percent of returns have been handled and are out of the system. It makes perfect sense to let this kick in so farmers and ranchers can begin getting the tax refunds they deserve. It doesn't put the Dept. in jeopardy because they have from now until Oct. 1 to get their people in line and get word out how they're going to handle it. I don't think we need to delay the process and increase complaints in midterm.

CHAIRMAN JABS Don't you have six months to get a refund in from the date you receive it?

Robert Turner Yes.

SENATOR JERGESON Perhaps the issue is the applicability date, not the effective date of the act. Would there be a way to describe this applicable to fuel purchases during a calendar year or during a fiscal year of an operation that ends during this calendar year? We don't want people to have to fill out forms until they've reached the end of their fiscal year or the end of this current calendar year.

I compliment **SENATOR HOLDEN** on his work on these amendments. One of the conflicts was the difference between gross income and earned income currently in the law. I'm not sure why this same kind of refund should not be available to a person whose wife earns a salary in town as compared to a person who has some investments, clips coupons and has unearned income. Both those sources of income are a supplement to the income of the agricultural operation. I think we ought to consider why we're going to treat unearned income favorably in this process as compared to earned income.

SENATOR MESAROS Will these be incorporated in the agricultural fuel tax refund that you're presently sending out?

Robert Turner No.

SENATOR MESAROS We've gone from a simple two page form to a ten page form. If this is adopted, will it be included in that same form?

Robert Turner I suggest we send the agricultural users a new form just for agriculture because that's all this affects. It would be a couple pages again.

SENATOR MESAROS My point is, we would start out with a couple pages like we had, now we have this new and improved form that's about ten pages and I'm wondering if this is going to add to it.

SENATOR BECK Those people who are getting the gas tax right now will get it as we go along. Probably it will make some people eligible for a gas tax refund after July 1, but I don't want to get into your fiscal year. You can have that going right with this bill at the start of your fiscal year if you make this effective July 1?

Robert Turner Yes, if you made it effective July 1. Anything filed before July 1 would be under the old system, but anything filed after July 1 would be under the new system.

SENATOR BECK If they were eligible under the old system, they would get it anyway. If you weren't eligible under the old system, you would have to start with no receipts previous to July 1. If you weren't eligible before and this makes you eligible, you're eligible as of July 1.. We have to wait until the end of this fiscal year, as the impact is going to be in the next fiscal year.

CHAIRMAN JABS I would say anything received after July, even though it's back dated, would be eligible because you can go back fourteen months.

Robert Turner Anything filed after July, even if they were purchased prior to, would fall under the new system with a July 1 effective date.

CHAIRMAN JABS That's what I mean. So they could still go back fourteen months after July.

SENATOR BECK If this bill doesn't take effect until July 1, I don't see how they can go back fourteen months prior when they weren't eligible before. This is the bill that makes those people coming into the system eligible for that extra gas tax. Once this bill is effective, then they're eligible. They're not eligible right now so I don't think they can go back unless you want to put another amendment in.

Robert Turner I would defer that to the legislative council. The fourteen months is in a different section of the statute and you come in and apply for the 60%. That is being changed to a sliding scale. What you're not changing is the invoices that they're allowed to go back fourteen months.

SENATOR BECK All you're allowed is the fourteen month accumulation of invoices. If you have six months in that and tried to go back fourteen, you can't. You can only take the last six or eight months, it depends on when you file. You're allowed to go back fourteen months with invoices to get a gas tax refund,

am I saying it somewhat correctly?

Doug Sternberg I think so. Unless we specifically apply the provisions of this formula outlined retroactive, it would be my opinion until this bill goes on line, whatever date that is, it doesn't apply.

SENATOR BECK It doesn't apply and I don't think we want it to, because it gets into this fiscal year on your revenues and we want the fiscal note to go with next year's revenue. We don't want the fiscal note to get into this fiscal year. You actually have to put it in here if you want it retroactive fourteen months.

SENATOR DEVLIN Why would you have to do that when it's already in law, fourteen months is the limit on the invoices.

SENATOR BECK What this bill is doing is making you eligible for a refund. You weren't eligible for that refund until this bill takes effect.

SENATOR DEVLIN If it's going into effect July 1, from there on all these people are eligible to go back fourteen months. How far can they go back? July 1 would be the effective date and they couldn't claim anything before that date.

Doug Sternberg I would have to agree with that because this system would not be in place and the people that would be eligible under the statute until that law takes effect.

SENATOR DEVLIN It should be written in the bill then, shouldn't it? So they can't go back fourteen months?

Doug Sternberg If you wanted to make it apply to receipts that were accumulated, then it would be necessary to retroactively apply this. If you don't, as of July 1 the new system kicks in and anyone who is eligible under the new system from that date forward can apply.

Motion: **SEN. BECK** moved to **MAKE EFFECTIVE DATE JULY 1, 1999.**

SENATOR TESTER What tax form are you going to need to determine this?

Robert Turner We'll need a person's Montana return which supposedly will include all the federal information and the federal schedules which include usually the earned income, Schedule F and probably the partnership income.

SENATOR TESTER I think you're going to end up with more money in your fund adopting this. There's a certain paranoia about people distributing tax forms around. In fact I got a call this morning from someone who said they're a little bit leery about their tax forms flying all over State Government.

CHAIRMAN JABS Would this be just one time to set up your eligibility or every time you turn in a request?

Robert Turner We've been verifying income on people in the last three years. If a person's who has been on, for example, 40%, comes in this year with 30%, we're not going to go over and get their income tax records. We already verified his 40% so we're going to go ahead and issue 40% under this proposed amendments. It's not every time we're going to go back to Dept. of Revenue. I have some background with the Dept. of Revenue. The Dept. of Revenue fiercely tried to protect their income information. When I came to the Dept. of Transportation, I initiated the confidentiality statement that people have to sign who are even looking at those. When we see information, even before we put it away, after we're done we shred it. We're actually not keeping it, per se.

SENATOR TESTER The point is there's a certain amount of paranoia about who sees them, what's done with them and I think that's something we should consider as we adopt these amendments.

SENATOR NELSON I have a little bit of a problem with somebody who makes 10% to 19% of their living from agriculture being able to get a refund at all. These aren't really agriculture people and I don't think we should be going down that far.

SENATOR BECK It has to be the income off the ranch and that's what you're going to show the fuel against. I don't think you can have a big construction company and a little ranch. You have to document just the fuel used on the ranch.

Doug Sternberg, For clarification, this motion would be to strip the former amendments and substitute today's.

Vote: Motion **carried 9-1 with Tester voting no.**

Motion/Vote: SEN. BECK moved **MAKE EFFECTIVE DATE OF SB 401 JULY 1, 1999.. Motion carried 9-1 with Tester voting no.**

Motion/Vote: SEN. HOLDEN moved that **SB 401 DO PASS AS AMENDED. Motion carried 8-2 with Tester and Nelson voting no.**

ADJOURNMENT

Adjournment: 4:05 P.M.

SEN. REINY JABS, Chairman

CAROL MASOLO, Secretary

RJ/CM

EXHIBIT (ags41aad)